

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

JAMAR CONRAD CHAMBERS

Plaintiff

V.

JEFFREY CATOE, ET AL.

Defendants

Case No. 6:18cv429-JDK-KNM

ORDER ADOPTING REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Plaintiff Jamar Chambers, proceeding *pro se*, filed the above-styled and numbered civil rights lawsuit under 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636.

Sgt. Hollis Webster and Officer Wayne Whitten are the last two Defendants remaining in this case. On January 20, 2022, the Magistrate Judge issued a Report recommending that the claims against these two Defendants be dismissed for failure to exhaust administrative remedies. A copy of this Report was sent to Plaintiff, but no objections have been received. The Fifth Circuit has explained that where a letter is properly placed in the United States mail, a presumption exists that the letter reached its destination in the usual time and was actually received by the person to whom it was addressed. *Faciane v. Sun Life Assurance Company of Canada*, 931 F.3d 412, 420-21 and n.9 (5th Cir. 2019).


This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, Plaintiff did not file objections in the prescribed period. The Court therefore reviews the Magistrate Judge’s findings or clear error or

abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), cert. denied, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and Recommendation, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. The Court therefore adopts the Report and Recommendation of the United States Magistrate Judge as the findings of this Court.

Accordingly, it is hereby **ORDERED** that the Magistrate Judge's Report (Docket No. 68) be **ADOPTED**. The motion for summary judgment filed by the Defendants Sgt. Webster and Officer Whitten (Docket No. 55) is **GRANTED** and the claims against these Defendants are **DISMISSED WITHOUT PREJUDICE** for failure to exhaust administrative remedies. Because these are the last remaining claims and Defendants in the case, the case is **DISMISSED** in its entirety and final judgment will be entered accordingly. All pending motions are **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this **23rd** day of **February, 2022**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE